



## EFFECTIVE DATE OF LIQUIDATION / SEQUESTRATION

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### ❖ Liquidation

- Companies;
- Close Corporations; and
- Corporate Entities

### ❖ Sequestration

- Individuals;
- Trusts; and
- Partnerships.

## Sequestration

- ❖ Voluntary surrender: final order
- ❖ Compulsory application: provisional order and final order.

## Liquidation

- ❖ Traditionally by way of provisional order and final order.
- ❖ Note: provisions of the Transvaal Provincial Division Practice Manual - seek final order

## Sequestration

- ❖ Voluntary surrender

The date of the court granting an order accepting surrender

- ❖ Compulsory application by creditor or “friendly sequestration”

The date of the court granting a provisional order

## Liquidation

- ❖ Liquidation by way of shareholders' resolution:
  - Date of registration of the special resolution for winding up by the Companies Office (section 340 (2) of the Companies Act)
  
- ❖ Application to Court
  - Retrospectively back dated to the date of issue of liquidation papers once a provisional or final order granted (section 348 of the Companies Act);

### Section 348 of the Companies Act

“A winding up of a company by the Court shall be deemed to commence at the time of presentation to the Court of the application for the winding up.”

### Section 341 of the Companies Act

- “(1) Every transfer of shares of a company being wound up or alteration in the status of its members effected after the commencement of the winding up without the sanction of the court, shall be void.
- (2) Every disposition of its property (including rights of action) by any company being wound up and unable to pay its debts made after the commencement of the winding up, shall be void unless the court orders otherwise.”

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